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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,744	10/29/2003	Paul Higginbotham	MET20US	5752

7590 09/07/2005

C.A. Rowley  
P.O. Box 59  
51 Riverside Parkway  
Frankford, ON K0K 2C0  
CANADA

EXAMINER
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SOTELO, JESUS D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/694,744

Applicant(s)

HIGGINBOTHAM ET AL.

Examiner

Jesús D. Sotelo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-17 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 1-17 are in the application.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baker in view of Sabo.

Baker discloses a buoyancy device comprising a central portion 28 for forming a rear buoyancy area interconnected to a pair of lateral portions 18, 20, by a pair of front portion forming front buoyancy areas above belt 36. Each of the pair of front portions connect its adjacent lateral portions to the central portion. The pair of lateral portions is not disclosed as extending sufficiently around the waist to be located under the arms of the user. Sabo discloses a similar buoyancy device and teaches making the lateral portion extending further back around the waist. The buoyancy device of Baker discloses the use of an encircling belt 38 and first means for releasably connecting the front buoyancy areas to the belt means; second connecting means for releasably connecting the central portion to the belt means; third connecting means for releasably connecting adjacent portions of the front buoyancy areas together; and a fourth connecting means for releasably connecting the central portion to the lateral buoyancy areas.

In view of these disclosures, it would have been obvious to one skilled in the art to extend

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the lateral buoyancy areas of the buoyancy device of Baker, such that the areas extend under the arms generally as taught by Sabo. The lateral area already extend laterally and to add more extension would have been an obvious matter of design choice to one skilled in the art. It would have been desirable to extend the waist areas to increase the buoyancy of the device without making the buoyancy device cumbersome.

Regarding the limitation of claim 2, it is noted that the reference for the angle has not been established. Notwithstanding this, the recitation merely states a desired functional result.

#### ***Response to Arguments***

4. Applicant's arguments filed 2/15/05 have been fully considered but they are not persuasive. Applicant argues that neither Baker or Bateman teach the configuration of a W shape. Further, applicant argues that Sabo in fact intends the lateral projections to remain "in front" of the wearer. Applicant cites the text in the Sabo patent to show Sabo's intent.

5. Initially, it is noted that the teachings of Sabo of extending the lateral projections outwardly do create "simulated W shape". It is noted that the reference to a "W" configuration is not very specific, for the letter "W" can be printed in varied configurations. The showing in figures 3 and 4 of Sabo show what could be considered a "W" configuration. Applicant's statement that the torso portion 23 in Sabo is intended to be located "at the front only thereof", with reference to the text in the Sabo patent has been taken out of context. In column 2, lines 56-62, merely refers to the front sections of the torso portion. It is clear that the "laterally extending projections 43, 44" (column 4, lines 54-56) do extending under the arms of the user. As such, it is our position that the combination of references meet the claims as stated in paragraph 3, above.

6. Prescott and Hunt are cited as showing life jackets having a "W" configuration.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon.-Fri. 5:30 AM – 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Jesús D. Sotelo*  
*Jesús D. Sotelo 9/1/05*  
Primary Examiner  
Art Unit 3617  
KNX 3D69 ☺

jds